

REMARKS

We trust that the Examiner will now find the application to be in condition for allowance and reconsideration is respectfully requested. Claim 6 has been amended in response to the Examiner's objections. A marked-up version of the amended claim is included in a section attached hereto. In the marked-up claim, the words underlined are being added, which places the amended claim into the form given above. The attached section is captioned **VERSION WITH MARKINGS TO SHOW CHANGES MADE.**

In the Office Action, claims 6-8 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application No. 09/915,100. In response, claim 6 has been amended to recite inserting a slider on the reclosable zipper of a filled package while the reclosable zipper remains fully interlocked. In contrast, the claims of the copending application do not recite a filling step nor do the claims restrict slider insertion until the filling step is completed. As such, it is respectfully submitted that amended claim 6 and dependent claims 7, 8 of the present applications would not be obvious in view of copending Application 09/915,100. However, the Applicant may consider filing a terminal disclaimer, if necessary, in response to any further obviousness-type double patenting rejections.

In the Office Action, claims 6-8 were rejected under 35 USC 103 as being unpatentable over Herz (U.S. Patent No. 3,790,992). In response, claim 6 has been amended to recite inserting a slider on the reclosable zipper of a filled package while the reclosable zipper remains fully interlocked. By making packages with inserted sliders on a package form fill and seal line, the present application is clearly distinguishable from the Herz reference.

In contrast, the Herz reference would not permit the loading of sliders onto a zipper that remains fully interlocked during the insertion of a slider. In the cited reference, a separating finger 13 separates the groove 5 and rib 6 elements to produce the engagement of the slider 7 on the sheets 1,2 (See Figure 2). As a result, the loading of sliders onto a fully interlocked zipper as recited in claim 6 of the present

application would not be obvious to one skilled in the art in view of the Herz reference. Claims 7 and 8, which depend on amended claim 6, also would not be obvious in view of the cited reference.

In the Office Action, claims 6-8 were rejected under 35 USC 103 as being unpatentable over Lems (U.S. Patent No. 4,654,878) in view of Thieman (U.S. Patent No. 5,956,924) or Laguerre (U.S. Patent No. 3,701,192). In response, claim 6 has been amended to recite inserting a slider on the reclosable zipper of a filled package while the reclosable zipper remains fully interlocked. By making packages with inserted sliders on a package form fill and seal line, the present application is further distinguishable from the Lems reference.

In contrast, the reclosable zipper of the Lems reference could not function if a slider was used with or inserted onto the reclosable zipper. The Lems reference discloses a chain of pre-made zipper bags which at a bag-opening station are opened by displacing one fastener strip profile relative to the other corresponding profile to form an initial loop opening in the bag mouth. A finger-member then fully opens the bag mouth. (Col. 4, lines 37-45) After the bag is filled, the zipper bags are closed at a closing station by inter-engaging the fastener strip profiles. (Col. 4, lines 53-56) If a slider was inserted on the zipper of the Lems reference, the zipper would be opened within the slider because the reference states that the zipper must be forced fully open by the finger-member to be filled. The problem is that when the bag is filled and closed by inter-engaging the profiles of the zipper, the opened portion of the zipper within the slider cannot be closed at the closing station since the slider walls prevent this. Also, the slider cannot be used to close the zipper after filling since the slider no longer engages any portion of the zipper for closing.


Amended claim 6 of the present application is still further distinguished from the Lems reference in that it is also structurally impossible to insert a slider on the zipper of the cited reference. As shown in Figures 4 and 5 of the Lems reference, the bag is formed with a flange or mouth 15 above the fastener strip profiles. This mouth is an essential part of the reference since it is formed as a loop opening for filling. (Col. 4, lines 37-45) This is contrary to amended claim 6 of the present application where a slider can be inserted on a fully interlocked zipper. Since the mouth or flange in the Lems reference cannot be

removed, it would be a clear obstacle to a slider insertion during bag manufacture. As a result of the functional restriction of the bag-closing operation and the structural restriction associated with the mouth 15 of the Lems reference, the reference neither teaches nor suggests the insertion of a slider on a fully interlocked reclosable zipper.

In regard to the Thieman and Laguerre references, the references would not permit the loading of sliders onto a zipper that remains fully interlocked during the insertion of a slider. In the Thieman reference, a separator 60 separates closure elements 50a and 52a (Col. 3, lines 28-31 and Figure 2a). In the Laguerre reference, a nose 9 separates the shoulders 5, 5' to produce the engagement of the slide on the strips 1, 1' (See Figure 4). As such, both the Thieman and the Laguerre references require separation of the closure or the shoulders of the zipper in order to insert a slider onto a zipper. As a result, the loading of sliders onto a fully interlocked zipper as recited in claim 6 of the present application would not be obvious by combining the Lems reference with either the Thieman or Laguerre references. Claims 7 and 8, which depend on amended claim 6, also would not be obvious in view of the cited references.

In view of the above, it is respectfully submitted that the claims as herein are patentably distinguishable over the prior art and the application is now believed to be in condition for allowance.

Respectfully submitted,



Gerald Levy
Registration No. 24,419
Pitney, Hardin, Kipp & Szuch LLP
685 Third Avenue
New York, New York 10017
(212) 297-5800

VERSION WITH MARKINGS TO SHOW CHANGES MADE

6. (Amended for a Third Time) The method of making packages having slide zippers on a package form fill and seal line, said method comprising the steps of:

providing a supply of a series of concatenated packages, each of said packages having a reclosable zipper;

filling each of said packages;

providing a supply of sliders, each of said sliders being insertable on to said reclosable zipper and adapted to open and close said reclosable zipper as said slider is moved along said reclosable zipper in opening and closing directions, respectively; and

for each of said concatenated packages, removing a slider from said slider supply and inserting said slider on to said reclosable zipper while said reclosable zipper remains fully interlocked and after said package is filled.